

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

V.

CRIMINAL ACTION
NO. 19-20246

RICKY HANDSCHUMACHER,

Defendant.

_____ /

SENTENCE HEARING
BEFORE THE HONORABLE DENISE PAGE HOOD
United States District Judge
231 Lafayette Boulevard West
Detroit, Michigan
Tuesday, November 9, 2021

APPEARANCES:

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On behalf of Plaintiff.

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On behalf of Defendant.

ALSO PRESENT: Bill Hampstead, Probation Officer

- - -

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E X H I B I T S

Exhibit No.	Offered	Received
	(None Offered)	

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1 Detroit, Michigan

2 November 9, 2021

3 2:17 p.m.

4 - - - -

5 **CASE MANAGER:** The United States District Court for
6 the Eastern District of Michigan is now in session, the
7 Honorable Denise Page Hood, Chief Judge, presiding.

8 Now calling case number 19-20246, United States of
9 America versus Ricky Handschumacher.

10 Appearances, please.

11 **MR. WYSE:** Good afternoon, your Honor. Timothy Wyse
12 for the United States, and with me is Michael El-Zein.

13 **THE COURT:** Is what?

14 **MR. WYSE:** Michael El-Zein.

15 **MR. HAMMOND:** And Attorney Keith Hammond on behalf of
16 Ricky Handschumacher here.

17 **THE COURT:** Okay. Good afternoon to all of you, and
18 you may be seated.

19 The record should reflect that we're here for a
20 sentencing on Mr. Handschumacher for Count 1, conspiracy to
21 commit wire fraud, and I have a presentence report dated
22 January 27, 2020. Is that what you have?

23 **MR. HAMMOND:** Yes, your Honor.

24 **THE COURT:** And this charges a violation of 18 United
25 States Code Section 1349 and 134 with not more than 20 years in

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1 prison, \$250,000 fine. It's a class C felony, and I have
2 report that lists the guidelines as a criminal history category
3 I, a total offense level 28, making the guideline provisions
4 for custody, which are advisory, of 78 months to 97 months, one
5 to three years supervised release, a fine range of \$25,000 to
6 \$250,000, and restitution of \$7,681,520.03, and a special
7 assessment of \$100.

8 Is that correct?

9 **MR. HAMMOND:** Yes, your Honor.

10 **MR. WYSE:** Yes, your Honor.

11 **THE COURT:** Okay. And I have that that's what you
12 all calculated relative to the plea agreement; is that correct?

13 **MR. WYSE:** That is correct, your Honor.

14 **THE COURT:** Okay. So if I didn't accept this plea of
15 guilty, I do now, and the Rule 11 Agreement.

16 Is that still what your client wants to do?

17 **MR. HAMMOND:** Yes, your Honor.

18 **THE COURT:** Okay. And I received a sentencing
19 memorandum, and I -- actually, this victim impact statement,
20 which is attached to it probably doesn't go with it, right,
21 from the Defendant, and it is ECF number 117; is that correct?
22 And it has some letters attached to it from an Amanda Upchurch,
23 David Ketchum, and Deborah Ferrer-Handschumacher, and Jonathan
24 Simkins; is that correct?

25 **MR. HAMMOND:** Yes, your Honor.

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1 **THE COURT:** I also received a victim impact
2 statement. I think I have a Government sentencing memorandum
3 as well, I should note that next, and it is ECF 116, and it
4 asks for 88 months, and three years supervised release, and I
5 think, counsel, you're asking for a noncustodial sentence; is
6 that right?

7 **MR. HAMMOND:** I didn't understand the question.

8 **THE COURT:** For the Defense, is that what you're
9 asking?

10 **MR. HAMMOND:** Just for a variance. I'm not sure I
11 understood your question.

12 **THE COURT:** Are you asking for a noncustodial
13 sentence?

14 **MR. HAMMOND:** Yes.

15 **THE COURT:** Okay. And then I mentioned I had a
16 victim impact statement, and it's my understanding you -- what
17 are the initials of the victim?

18 **MR. WYSE:** S.S., your Honor.

19 **THE COURT:** Okay. And it's my understanding that
20 individual called the Government today and asked if they could
21 listen in on the telephone, and that the Court just, right
22 before this hearing, was informed of that, and so we haven't
23 taken up any mechanism to make that easier or not. However,
24 this is the same victim from which I received this victim
25 impact statement; is that correct?

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1 **MR. WYSE:** That is, your Honor.

2 **THE COURT:** Okay. And it's this one that has the
3 name and the date of birth deleted and it's on a victim impact
4 form; is that correct?

5 **MR. WYSE:** Yes, your Honor.

6 **THE COURT:** Okay. And so they have had a chance to
7 direct the victim impact statement to me. We did attempt to
8 telephone the person so that they could listen in.

9 Are you attempting to do that again, Miss Saulsberry?

10 **CASE MANAGER:** The clerk told me he just tried
11 calling the Court right now.

12 **THE COURT:** So I'll finish making a record and then
13 we'll speak to that. I indicated that we would try to contact
14 him. He was contacted. He didn't answer. A message was left,
15 and, apparently, he's called back. Did you also contact him by
16 e-mail, counsel?

17 **MR. WYSE:** I directed our victim witness coordinator
18 to do so because I don't personally have it, but I did ask that
19 to occur.

20 **THE COURT:** I didn't hear the last part.

21 **MR. WYSE:** I'm sorry. I asked our witness
22 coordinator to do that. I personally don't have his e-mail,
23 but I let someone know who did to contact him.

24 **CASE MANAGER:** I have him on the line. He's on hold.
25 Should I patch him in?

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1 **THE COURT:** What are his initials?

2 **MR. WYSE:** S.S., your Honor.

3 **THE COURT:** S.S. Okay. Can you let him know before
4 you patch him that we'll be referring to him as Mr. S.S.?

5 Ms. Saulsberry, what have you done with my pad -- is
6 he still on the line so I can pick it up from here?

7 Mr. S.S., can you hear me?

8 **MR. S.S.:** Yes, I can.

9 **THE COURT:** Okay. So you should know that I've
10 already started because we didn't get any answer from you
11 initially. The attorneys have put their appearances on the
12 record and the appearance of the Defendant and the appearance
13 of somebody at the Government table, and there are some
14 spectators.

15 My name is Denise Page Hood, and I'm the judge
16 assigned to it. A representative of the probation department
17 is with us as well, my case manager, and a court reporter, and,
18 of course, our court security officer.

19 You should know that you are not permitted to
20 transcribe this in any way, do you understand that?

21 **MR. S.S.:** Yes, your Honor.

22 **THE COURT:** And do you agree to that?

23 **MR. S.S.:** Yes, your Honor.

24 **THE COURT:** And I also have a victim impact statement
25 from you; is that correct?

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1 **MR. S.S.:** Yes, your Honor.

2 **THE COURT:** Okay. All right. Very well then. We're
3 going to proceed.

4 I have gone over the guideline range for custody from
5 the presentence report with them already, which is -- what did
6 I say it was, 78 to 97 months? Let me go back there and find
7 it. Maybe I won't find it. Ah, here it is. Which range is 78
8 to 97 months of custody, advisory, and up to a \$250,000 fine
9 and a restitution amount of \$7,683,570 plus, and I accepted
10 this plea of guilty, and the way this will proceed -- and,
11 Mr. Handschumacher, you should understand that this is how I
12 normally proceed. I let your counsel go first. Then I let the
13 Government counsel speak, and then you can make a statement to
14 the Court, okay?

15 **THE DEFENDANT:** Yes, your Honor.

16 **THE COURT:** And I don't know, counsel, whether or not
17 Mr. S.S. wants to make a statement. Do you know that?

18 **MR. WYSE:** It was my understanding, as of earlier
19 today, that he was going to let that statement speak for him
20 that he submitted, but your Honor could ask him again, but that
21 was what my understanding was.

22 **THE COURT:** Okay. Did you hear what counsel said?

23 **MR. S.S.:** No, your Honor.

24 **THE COURT:** Okay. So we didn't know that you were
25 going to want to participate by phone. So we don't -- aren't

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1 set up to do that today. So I'll help you by saying he has
2 told me that you don't want to make a statement yourself; you
3 want your written statement to stand for itself. Is that
4 correct?

5 **MR. S.S.:** Yes, your Honor. And you should have a
6 shorter statement, like two pages as well, rather than the one
7 that he submitted in 2020. It should be a relatively brief
8 statement.

9 **THE COURT:** I don't have that. I only have this
10 statement.

11 **MR. WYSE:** I did not hear him, your Honor.

12 **THE COURT:** He says, "I should have a short statement
13 as well," in addition to this. I have a statement that says at
14 the top, "Victim Impact Statement." It's like a form and it
15 continues onto a second page that says, "Additional
16 Information."

17 **MR. S.S.:** Okay. Is it two pages?

18 **THE COURT:** Yes -- well, it's one and a half.

19 **MR. S.S.:** Okay. Yes, because I think one was
20 submitted originally, your Honor, like February 2020, but, you
21 know, it was really long. So I just submitted a shorter, to
22 the victim specialist, and you have the right one. Thank you.

23 **THE COURT:** Okay. Thank you. All right. Great.

24 I should also indicate, if I didn't indicate, that I
25 had a sentencing memorandum from each side.

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1 **MR. WYSE:** You did, your Honor.

2 **MR. HAMMOND:** Yes, you did.

3 **THE COURT:** And -- okay. Then I'm ready to -- I find
4 the presentence report is accurate. There are no objections to
5 it. So I'm ready for you to proceed.

6 Now, what I'd like to you do is you're going to have
7 to go to the podium and speak really loudly, okay.

8 **MR. HAMMOND:** Okay.

9 **THE COURT:** Sorry about that. I normally would let
10 you either be seated or stand, whatever you want, but I don't
11 know, Ms. Saulsberry, do you think that he'll be able to hear
12 better from your phone?

13 **CASE MANAGER:** I don't think so, Judge.

14 **THE COURT:** Then counsel, you'll have to speak really
15 loudly, okay.

16 **MR. HAMMOND:** Okay. I'll try.

17 Your Honor, I'm going to speak, and another USA
18 attorney will then speak, and then Mr. Handschumacher. Is it
19 okay his mother and his other half to speak after
20 Mr. Handschumacher? I listed them as sentencing witnesses.
21 It's just as far as the order. Is that the appropriate time
22 for them to --

23 **THE COURT:** No. They should go as part of your
24 presentation.

25 You don't have any objection to that, do you, sir?

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1 **MR. WYSE:** No, your Honor.

2 **MR. HAMMOND:** Then I'll bring --

3 **THE COURT:** No. You speak first. Then you can have
4 them speak, and then the Government will speak, and then your
5 client.

6 **MR. HAMMOND:** Okay, your Honor.

7 On this one, I've been going over all of the
8 materials that you've mentioned, and I just want to say a
9 little bit about the history which goes into showing that the
10 character and type of person that Ricky Handschumacher is. I
11 know that at least nine months prior to the indictment, the
12 federal indictment, he was already cooperating with the state
13 and federal authorities, and, at that time, they were under the
14 impression that he was what we call a small fish in this
15 operation, but it -- after nine months, then the federal
16 indictment came down, and Mr. Handschumacher continued
17 cooperating with the federal authorities.

18 He's trying to do everything he can now. It did not
19 lead to any arrest outside of the community, and the Government
20 did an excellent job in their memorandum as far as describing
21 the community, to help get an idea what this was, and it was
22 just a loose-knit organization. None of them had ever met each
23 other personally. I don't think they knew their real names
24 just they would chat under names on the Internet.
25 Mr. Handschumacher had never met any of these people. So he

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1 continued to do the things that we would hope that he would do
2 by cooperating.

3 He was under state control for around the 9 to 12
4 months prior to the federal indictment, and, then, when the
5 federal indictment came down, then the state dropped their
6 charges, but he was under bond and under supervision, and, so
7 since then, he's been under federal supervision. He's got the
8 ankle monitor. So he's -- for three years, he's been doing to
9 the right thing, but it's not just three years. In the
10 Government's memorandum and in the presentence report, it goes
11 back -- he's -- he has no prior criminal record. He's seemed
12 to be leading an exemplary life, and the reason I say this is
13 because is he a bad apple or is this an aberration, and I think
14 this was aberration. It is not indicative of the type of
15 person.

16 A lot of people would say, "I'm gonna get my life
17 straightened out. I'm gonna, I'm gonna, I'm gonna," and then
18 they have to come before you and say they're going to do stuff,
19 but he's the type where he didn't sit around feeling sorry for
20 himself. He knows he's got to face punishment on this, but he
21 immediately got himself back up. He got a job. He has a
22 family. He has children. So he led a good life before this,
23 and, yes, he did these things, and there's really no excuse for
24 it, for what he did, and I read the victim impact. I know -- I
25 would be devastated if that happened to me. So I understand --

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1 and I've done a lot of these cases, and I understand how
2 devastating it is to the victims, and that's where it makes the
3 Court's job tough because you have balance.

4 Here, in Mr. Handschumacher's case, he made a
5 mistake. He's trying to do right, and while he's been on
6 release, I know -- I've represented hundreds of clients, and
7 there's always some kind of hiccup. You know, the battery is a
8 problem, or this, or some kind of excuse. We haven't heard
9 anything. There have been no complaints about
10 Mr. Handschumacher, either from the state or the federal
11 authorities. He's been doing what he's supposed to be doing.
12 I know the one time I was in here, and one of the codefendants
13 is wanting to go on the Internet to play Fortnite or something,
14 and you were having to talk to him. I was surprised at that.
15 I'm thinking, you know, he's facing something like this. He
16 needs to be doing what he should be doing, and that's what
17 Mr. Handschumacher is. He's not "I'm gonna." He's leading the
18 kind of life that he should.

19 And that's why it's a question as whatever
20 punishment, is it a deterrence, and some people -- like for
21 punishing children, some have to be spanked and some have to be
22 told. At this point, it's working with Mr. Handschumacher.
23 He's obedient. He does what he's told. There hasn't been
24 anything new, and that's why I'm urging the Court to consider
25 it.

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1 And the other thing, when I look back at it, it
2 bothers me that it seems like a guideline sentence would impose
3 a sentencing disparity in something like this, and it's my
4 opinion it seems like Mr. Handschumacher is a small fish. He
5 didn't know anybody else, and it's sort of like a drug
6 conspiracy, but we have a group of people in the community that
7 are actually hacking into the cell phones and targeting people,
8 and then we have another person that goes and talks to an
9 Internet provider or a cell phone provider. Mr. Handschumacher
10 is down here, and these -- the people that want to do the
11 actual work, they need to contact somebody with a cell phone
12 provider.

13 So Mr. Handschumacher knows a defendant who knows the
14 people. So he's not the one that actually contacts the
15 provider. He's not the one that actually goes into the phones
16 he's not the one that actually handles any money. His conduct
17 is still just as illegal. It's like a drug conspiracy.

18 **THE COURT:** So you're saying his conduct is what?

19 **MR. HAMMOND:** Pardon?

20 **THE COURT:** Is less than the other codefendants?

21 **MR. HAMMOND:** Well, his guidelines are higher than
22 the sentences coming down with the codefendants. Now, there
23 was one codefendant that had like over ten charges, and I think
24 he got a ten-year sentence, but, in the Government's
25 memorandum, they talk about a two and three-year sentence for a

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1 couple of them, and so it -- this bothers me, because I know
2 Mr. Handschumacher has got one charge and he's cooperated.

3 Now, what I'm guessing is that his cooperation, and
4 what the Government says, it's not fruitful towards arresting
5 anybody else. I think that's because he only knows the people
6 in this close-knit group. If others -- and I don't know if
7 others have an achieved cooperation because they know outside
8 stuff, but he only knows the few people in his group, and he's
9 been cooperating with them. He's made trips up here to
10 Michigan on his own where there's several court hearings. He's
11 talked to the federal authorities down in Tampa. He's -- from
12 day one, he's been trying to do what he can. So he's given
13 everything he knows, and I think everything he knows is
14 comprised in this prosecution.

15 And so that says to me, if he knew other people
16 outside of it, he would be a bigger fish, but he -- he just
17 knows what these -- and, like I said, he didn't know the people
18 that wanted to do the actual money transfer and the hacking.
19 He didn't know the actual people with the cell phone providers.
20 He knows people, and they'll say, "Do you know anybody?" And
21 he says, "I think Defendant C can help you out." So he'll
22 shift it, and he would get paid, and that's -- that's -- that's
23 where he made a mistake. You know, it's one thing, you know,
24 just helping people out, but he's getting money for this, and
25 then people, like you see in that impact statement, are

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1 impacted, and that's probably their retirement I'm guessing.
2 It would be devastating. I know if it was my mom I would be
3 devastated.

4 The conduct can't be excused, and that's why he's
5 charged, but then the question is what, what does the Court do
6 as far as punishment? What is necessary to deter him? And
7 when I look at his life up until this act, and then his life
8 after this act, it seems like if he was a child, he's the kind
9 that can be told, and he's obedient. Yes, he did wrong, but
10 the question is, you know, how much punishment needs to be
11 there.

12 I did note on the victim impact letter, it sort of
13 looks like it's all toward Mr. Handschumacher, but if I'm
14 understanding it correctly, it's the community did it. I don't
15 know who -- I don't know which person actually did it, but it
16 shouldn't be targeted towards Mr. Handschumacher himself. It
17 should be targeted towards all of them. They all caused the
18 loss to this victim.

19 One the other things I wanted to bring to the Court's
20 attention is that there was a lot of money taken. All of the
21 money that Mr. Handschumacher received in the way of Bitcoins
22 or turning into a vehicle or whatever has been seized by the
23 Government, and Mr. Handschumacher has voluntarily agreed to
24 turn that over. He thinks there's an extra \$5,000 in there
25 somewhere that he just spent, but that's what the Government

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1 took. What they took is small apples in comparison to what was
2 taken overall. So if that's all he got, that's another example
3 of him being a small fish in this thing.

4 There's millions. There was millions that was taken,
5 but -- and I'm going over what my client told me. He says that
6 everything he got was converted either into Bitcoin or personal
7 property, and the Government figured it out, and they got it
8 all, other than he -- like I said, he thinks he spent about
9 \$5,000. That ratio would tend to show that he's a small fish.
10 So that gets back to is there a sentencing disparity? If
11 people are getting two or three years, why are his sentencing
12 guidelines so high?

13 So I would submit that he's a worker-type person. He
14 was working at a government job before this. He now has a job
15 again. He didn't sit around feeling sorry for himself, didn't
16 make excuses; he works. And he's got a letter he wanted to
17 read to the Court. He wanted to talk, but he's nervous. So I
18 told him to write it down. So sometimes he'll get nervous
19 talking to the Court, and it seemed to me, in there, that he's
20 had time to think, and sometimes with this, when people think
21 the question is what's really important in life. They're
22 chasing this money. Is that -- you can't take that to the
23 grave. The important things in life, which I think he's
24 finally getting, and it took me a long time to understand that,
25 that family, and spending time with their loved ones. Those

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1 are the things that are important.

2 Those are the things that mean something, and he's
3 got the people sitting behind him. He's got his mom and his
4 other half, and they have a child, and he's put all of that in
5 jeopardy, and it's finally -- you know, when you're -- you
6 know, the young people, that they think it won't happen to
7 them. It does happen to them and they don't think that every
8 action they have has a consequence. So it's not just affecting
9 him, it's affecting the people that are sitting behind him that
10 love him. He's thinking about that, and sometimes it just
11 takes people awhile to get that, but I think the light bulb has
12 clicked, and I'm hoping when he talks to you that will come
13 through.

14 Of course he's hoping for a non-incarcerated
15 sentence. If the Court did decide to impose some type of
16 incarceration, we were hoping that he would not have to report
17 in until after the holidays. This would be his first holiday
18 with his newborn, and we're hoping, also, that the Court would
19 recommend maybe Coleman or someplace like this in Florida so
20 the family could have an easier time visiting him and visit him
21 more often.

22 Just a couple thoughts from going over the Government
23 memorandum. I was noticing on Page 5, they said the different
24 members had different functions. That confirms what I was
25 saying, that there wasn't one person doing everything.

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1 Everybody did something different, and, if I'm understanding
2 correctly, Mr. Handschumacher's part was when -- and he
3 didn't -- he didn't go looking for it. When they would call
4 him, instead of doing the right thing and saying "no," he would
5 say, "I know where you can get what you want, go talk to this
6 defendant," and then they would go and talk to that defendant,
7 and that defendant would do another criminal act, and then
8 money would come to Mr. Handschumacher. So it was wrong.

9 The Government's memorandum notes there that
10 Mr. Handschumacher did agree to the forfeitures. It notes that
11 Mr. Handschumacher has no criminal activity or no criminal
12 history, and then, it was either Page 10 or 11, it said that it
13 appeared that he -- that he appears to be contrite and
14 remorseful, and that -- that's one of the things that -- I
15 represent a lot of people, and some of them just don't seem to
16 have any remorse, and that's, you know, and then I worry, you
17 know, what does the future hold for them. I mean are they
18 going to if out and do it again?

19 If, like in the Government's memo, he's contrite and
20 remorseful, I think that's the first step, the first step. If
21 he's not contrite and remorseful, then any leniency is going to
22 be wasted. If he is contrite and remorseful, I think that's
23 the first step and leniency by the Court would be warranted,
24 and I think a lesser sentence is all that is necessary to
25 achieve justice in this case.

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1 So that's all I had to say, Judge. If I may bring
2 forward his mother, Debra Ferrer.

3 **THE COURT:** Yes, you may.

4 **MR. HAMMOND:** Pardon?

5 **THE COURT:** She also has a letter; is that correct?

6 **MR. HAMMOND:** Yes.

7 **THE COURT:** She should come forward and you should
8 stand at the podium with her.

9 **MR. HAMMOND:** Okay.

10 **THE COURT:** Do you want her sworn, counsel?

11 **MR. HAMMOND:** It's not necessary.

12 **MS. FARRAR:** Hi, your Honor. My name is --

13 **THE COURT:** You have to speak into the mic and speak
14 really loudly.

15 **MS. FERRER:** My name is Debra Ferrer-Handschumacher.
16 I want to apologize for what my son has done. He has great
17 remorse. We have done nothing for the last three years but
18 have remorse for what he has done. He has children. I have an
19 eight-year-old granddaughter who has 50/50 custody with the
20 mom, and the mom has mental health issues. We have major
21 concerns for his daughter. Mom has tried to commit suicide.
22 He is very, very involved with his daughter's life. CPS has
23 been involved on mom's side multiple times. He made a mistake,
24 your Honor, absolutely. My son has never been in trouble
25 before. He's never even had a speeding ticket. He's known in

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1 the high school we grew up where we live. We've lived there
2 for 23 years, 24 years now. He grew up there, and he was a
3 high school baseball player in the papers all the time. He's
4 always had a good job. He's always had love for his family.
5 He was raised just by me. His dad left when he was about a
6 year old with alcoholism and abandoned us, and I raised him by
7 myself, and I thought I did a pretty good job. I am a nurse.
8 I actually worked for Pasquale Sheriff's Department in the
9 medical detention unit and took care of the inmates. My son,
10 that's not his character, and I just beg of you for leniency,
11 please.

12 It's his first time ever being in trouble. He's
13 never been in trouble before. He's scared. He cries, and I
14 know he did wrong, believe me. We know did he wrong; we all
15 do, but he's always lived a normal life. He -- we have no
16 answer to why this happened. He did it, and he's sorry, and he
17 has remorse. We all do, my whole family. We're all sorry. He
18 just had a brand new baby. He wants to be able to be the dad
19 that he didn't have, and he wants to be able to go up and see
20 his children and do things with his children.

21 I just ask of you to take into consideration that
22 he's never been in trouble. He's a good kid, and we apologize,
23 and I'm sorry. Thank you.

24 **THE COURT:** Okay. Thank you.

25 **MR. HAMMOND:** And then Amanda Upchurch, his

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1 significant other.

2 **THE COURT:** She also has a letter; is that right?

3 **MR. HAMMOND:** Yes.

4 **THE COURT:** Okay. Very good. She may step forward.

5 **MS. UPCHURCH:** My name is Amanda Upchurch. We just
6 had our son two and a half months ago. Ricky is the sole
7 provider for our family. I currently am not working. He is
8 such an amazing dad. He made a huge, huge, mistake that
9 affects a lot of day-to-day things, but we make it work, and he
10 is such a great man. I'm sorry. -- I can't do this.

11 **MR. HAMMOND:** You have a letter. Do you want to
12 stand on the letter?

13 **MS. UPCHURCH:** Yes, please.

14 **MR. HAMMOND:** That's okay.

15 **MS. UPCHURCH:** Yes, please. Thank you.

16 **THE COURT:** All right. Thank you for coming.

17 **MR. HAMMOND:** That's why I have letters, because I
18 never know when they can make it through. So that's all I
19 would have until the Government speaks, and then
20 Mr. Handschumacher wanted to speak, your Honor.

21 **THE COURT:** Okay. Thank you. Does the Government
22 wish to make a statement to the Court?

23 **MR. WYSE:** I do, your Honor.

24 **THE COURT:** Okay. Come to the podium, please. I
25 wouldn't normally make you come up there, but, otherwise,

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1 there's no chance of the person on the phone hearing.

2 **MR. WYSE:** I understand, your Honor. Your Honor, we
3 are asking for a midpoint guideline sentence in this case of 88
4 months. A key reason for this recommendation is the magnitude
5 of the crimes. Mr. Handschumacher was not a small fish. He
6 was tied to over \$7 million in losses at the time of the theft.
7 Your Honor, that's more than any defendant that you've seen so
8 far in this case, and it's more than any defendant that you
9 will see in this case. It's the top.

10 And the broader conspiracy that he was a part of
11 totaled in the tens of millions of dollars, but as defense
12 counsel noted, this was a loose conspiracy. The Government
13 felt that the best facts -- the best reading of the facts was
14 to only hold people responsible for their own portion of it,
15 and our reading was only to hold people responsible for the
16 dollars at the time of theft, and, again, for
17 Mr. Handschumacher, that was over \$7 million.

18 And yes, your Honor, this was cryptocurrency. The
19 cryptocurrency is earned. It's saved. It's spent. Its value
20 isn't something we make up, it was set by the market, and it's
21 value the Defendant recognized. We saw -- with
22 Mr. Handschumacher, your Honor, we saw more purchases, more use
23 of the illegal funds than we did with other defendants.

24 **THE COURT:** Okay. Tell me this. Tell me a little
25 bit more clearly what his role was in this offense --

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1 **MR. WYSE:** With his role, your Honor --

2 **THE COURT:** -- relative to the other people that are
3 involved?

4 **MR. WYSE:** It was comparable. I have to say that
5 much of the conspiracy is still shrouded. I don't know to the
6 line what everyone did, but I do -- the role that was described
7 by Defense counsel was at least part of Mr. Handschumacher's
8 role, and it was a significant one. This crime, as we agreed
9 before and discussed before, it couldn't take place without the
10 takeover of the victims' phones. That was the essential
11 element of the crime. Without that takeover of the phones,
12 nothing else could happen.

13 And while he may have done other things, one thing
14 that we do know that Mr. Handschumacher did do was he
15 facilitated the takeover of those numbers by either directly or
16 indirectly contacting cell phone companies, facilitating, in
17 some cases, bribes in order for cell phone providers to turn
18 control of numbers over to hackers. It was a very lengthy,
19 complex, difficult to execute conspiracy. These funds were
20 split many different ways but Mr. Handschumacher's element was,
21 if anything, the essential part of it, and he got the proceeds.

22 We seized ATVs, multiple ones. Defendant purchased
23 jet skis. He purchased \$75,000 pickup truck. Over half a
24 million dollars in cryptocurrency was seized from him. He was
25 a comparable part, an integral part of this conspiracy that

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1 your Honor has seen. His role may have been different, but it
2 could not have occurred without what Mr. Handschumacher did.

3 If may I continue?

4 And something about that value, I mean we agreed in
5 this case the Defendant's value was calculated at the time of
6 the theft, and that's a good thing for the Defendant's
7 guidelines in his perspective, because the value of what he's
8 taken has skyrocketed. For example, Defendant's guidelines are
9 based on approximately \$7 million in losses, but just taking
10 one of the victims into account, Victim S.S., his loss today
11 would be valued at over \$12 million, and we are not asking for
12 any increased guidelines, but we would like the Court to
13 understand and consider that in evaluating where the sentence
14 is relative to the guidelines, that the victims in this case
15 have actually lost far more than the paper value based on the
16 values have gone up.

17 I mean, as I mentioned, these crimes were repetitive.
18 It was not a one-shot deal. This was done again and again and
19 again, and it was personal crimes. The impact on these victims
20 go beyond the financial. Whether it was Mr. Handschumacher or
21 someone else, it involved looking through the e-mails and
22 digital files of their targets. It wasn't a black box crime in
23 which only dollars were taken.

24 The victims feel personally violated, and focusing on
25 Victim S.S., who submitted the statement, your Honor, he lost

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1 cryptocurrency to the conspiracy was valued at nearly
2 \$2 million in 2018. It's worth over \$12 million today if he
3 had kept and held those positions, and this was his life
4 savings. He sold his home. He had to leave his state to
5 reduce the cost of living for him and his family of four. His
6 child now keeps his toys in a locked box and asks his dad if
7 the hackers are going to come back. This victim lost his
8 passport numbers, his Social Security number, account log in.
9 The exposure of his personal information on the Internet has
10 led to threats, extortion and it hasn't stopped. Just last
11 week someone used his personal information to apply for a
12 \$75,000 loan. This is just one of the Defendant's victims, and
13 this isn't a victim that lost the most money. Another victim
14 lost over \$5 million at the time of theft.

15 Now, I understand, and I am sympathetic to
16 Defendant's personal circumstances but I don't find them
17 mitigating. I think that asking for a noncustodial sentence
18 here is unrealistic and reflects a lack of understanding of the
19 gravity here. Again, this was not just an occurrence crime
20 where personal circumstances might mean more. He did it again
21 and again and again. It was not an aberration of his
22 character. I'm not saying that was the sum total of his being
23 your Honor, but it was part of his character. It was part of
24 his character for over a year worth of this conspiracy, and
25 Defendant points out that he has two children, one of those is

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1 borne very recently. That's tragic, your Honor, but it's not
2 mitigating. It's something that no other defendant can claim
3 that. I don't think it should be taken into account.

4 I do acknowledge that he did agree to be interviewed
5 by us. He does appear to be contrite and remorseful. He
6 sought cooperation with both us and another U.S. Attorney's
7 office, but his attempt to cooperate went nowhere. No value
8 was provided. I don't know if that's because he simply didn't
9 have the information or if he didn't share all of this. I
10 can't say for certain that we got all of the money, but I can
11 say this, that he tried, but he just -- it didn't come out, and
12 we gave him three points for acceptance of responsibility. I
13 think that's not small. He's entitled to that, but I don't
14 think he's entitled to a break beyond that.

15 I'd also like to discuss the significant difference
16 between Mr. Handschumacher and the defendants previously
17 sentenced. Your Honor previously sentenced Defendant Reyad
18 Abbas to 24 months and Defendant Colton Jurisic, whose loss was
19 smaller, but not significantly smaller. They were both in the
20 neighborhood of the seven million-dollar range. You sentenced
21 Jurisic to 42 months. Neither of these individuals had a prior
22 criminal record either, and both of them, I think, had some
23 compelling circumstances as well which your Honor considered,
24 most importantly, their youth. Both Defendant Jurisic and
25 Abbas were 18 at the time of their crimes, and both of those

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1 two became involved in the conspiracy when they were minors.

2 That's not the case here. Defendant was 25 years old
3 at the time of these crimes. Now, that's not old, your Honor,
4 but it's old enough. I mean in the hacking world, the
5 Defendant was, in effect, the old man in the chat room. He
6 knew better than these 17 and 18 year olds. He had a steady
7 job. He had a stable relationship. He had a child. He wasn't
8 somebody who was a social malcontent locked in a basement. He
9 knew better, and he participated again and again to the tune of
10 \$7 million in losses, which netted him significant luxuries in
11 life.

12 Compared to his codefendants, he was significantly
13 more mature, with much greater life experience, and I think the
14 Court should take that into account, especially considering
15 he's at the top of the culpability chart when it comes to
16 dollar amounts, and, therefore, I believe he should receive a
17 sentence within the guidelines or, at the very least,
18 comparable to what Mr. Jurisic received.

19 Finally, as I have in companion cases, I like to make
20 a plea for a significant sentence as a matter of general
21 deterrence. Crimes like this are a drain on the American
22 economy. They undermine a growing digital financial sector,
23 and for that digital financial sector to grow, consumers need
24 confidence that they're going to be protected, and they need
25 confidence that thieves will be punished, and this was a

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1 complicated, complex crime. It was difficult to prosecute and
2 investigate.

3 Defense counsel mentioned the nine-months time lag
4 between the time that the Defendant was arrested on local
5 charges in Florida, and then we eventually charged him. It
6 wasn't because he a small fish. It was because it took the
7 Government a lot of time to figure out who Mr. Handschumacher
8 was and how much he was responsible for. These are difficult
9 to investigate and prosecute these crimes, your Honor, and
10 those that are caught and brought to justice, they need to be
11 punished to affect the choices of those out there who believe
12 that there's a chance they won't be caught, and if they are
13 caught, they need to see there's going to be consequences.

14 We need to affect the choices that people similarly
15 situated to the Defendant, technically talented individuals
16 tempted by easy money, and, your Honor, that, and I rest on my
17 memo, and that's why we're requesting an 88-month sentence.

18 **THE COURT:** Tell me, is his activity more egregious
19 than the other persons that I've sentenced beyond just the fact
20 that they're younger?

21 **MR. WYSE:** I think that the dollar amounts, but, as
22 far as his personal behavior, I don't think -- I would not say
23 a difference. I would say the dollar amounts matter, your
24 Honor. Mr. Abbas, I believe, was in the \$400,000 loss range.
25 Mr. Jurisic was in the same ballpark, a little under

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1 \$7 million. I think, your Honor, it's difficult to sort of
2 assign ranks, other than dollars, but they were all part of the
3 same conspiracy, and Mr. Handschumacher had more times at the
4 wheel. He had more loss than anyone else brought before you,
5 and he was older and more mature.

6 **THE COURT:** Okay. All right. What is the total
7 amount of the forfeiture?

8 **MR. WYSE:** I would let my co-counsel speak to that,
9 your Honor.

10 **THE COURT:** Okay. Counsel, have you seen the
11 forfeiture language that's going to go into the judgment?

12 **MR. HAMMOND:** Yes, I thought we had a forfeiture
13 agreement.

14 **MR. EL-ZEIN:** We do, your Honor.

15 **THE COURT:** I just want to make sure you knew the
16 language that was going to go in. I know there are a couple of
17 vehicles, and I don't know if there were dollar amounts on
18 them, and so can you tell me the total amount of forfeiture
19 money-wise?

20 **MR. EL-ZEIN:** Yes, your Honor. The current -- so the
21 forfeiture I do not have sort of today dollar amounts today for
22 those figures. That will vary greatly on the actual
23 liquidation process for all the vehicles and also the
24 cryptocurrency. I'm also not aware of, you know, current
25 storage fees for the vehicles, things like that. So I can't

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1 tell you the final amount that will be obtained when all of
2 this is liquidated.

3 As to the Court's earlier question, whether Defense
4 counsel has seen the forfeiture language for the judgment. As
5 the Court is aware, I usually send that out before the hearing.
6 I apologize, I failed to do that today. I've already notified
7 the probation officer that I will send that out after today's
8 hearing, and I will obviously include Defense counsel. What I
9 can tell you is that the Court has already entered the
10 stipulated preliminary order of forfeiture. I can tell you
11 what items we are seeking to forfeit and would ask for
12 inclusion in the judgment and, here, that is 2017 Ford F-250
13 two ATVs my co-counsel discussed here. That's the 2018 Polaris
14 Ranger and 2019 Polaris Highlifter, and then the cryptocurrency
15 that we're forfeiting from this Defendant --

16 **THE COURT:** Do those have value amounts on them?

17 **MR. EL-ZEIN:** On the vehicles, I'm not certain what
18 the current values are on those, your Honor. I apologize. I
19 don't have the figures in front of me.

20 There's also approximately 38 Bitcoin. It's a rather
21 extensive decimal after that that's stated in the stipulated
22 preliminary order, which is ECF 82. There's also approximately
23 900 Ethereum.

24 So those values have gone up considerably from the
25 time of seizure, which is the value stated in the preliminary

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1 order of forfeiture. So when we actually liquidate those, it
2 will be substantially more. As for the market price for 38
3 Bitcoin today, I'm not certain. It changes, you know, fairly
4 regularly. I mean you really have to check the daily number.
5 I did not do that before walking into court today.

6 **THE COURT:** I didn't hear the last part of that.

7 **MR. EL-ZEIN:** I'm sorry, I did not do that before
8 walking into court today. I did not check to see Bitcoin's
9 current price. It fluctuates.

10 **THE COURT:** Okay. On Page 7 of the Rule 11 Plea
11 Agreement, it says he's going to forfeit his interest in 38
12 Bitcoin seized that was 282 to -- \$282,000 on May 9th and then
13 900 Ethereum, which was approximately \$404,000 on May 9th.

14 Do you expect that those figures are going to go
15 down?

16 **MR. EL-ZEIN:** No, your Honor. I expect those figures
17 are higher today.

18 **THE COURT:** Okay. And when will you determine what
19 that amount will be?

20 **MR. EL-ZEIN:** That won't be determined until we have
21 the final order of forfeiture. The stipulated order is final
22 as to the Defendant. However, we need to publish after the
23 judgment is issued, and then it has to be liquidated by the
24 marshal's service. At this time, your Honor, the marshal's
25 service is actually in the middle of negotiating a contract for

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1 their cryptocurrency services -- their liquidation services.
2 So I really don't want to hazard a guess. I can't tell you
3 exactly when that will happen, but, obviously, the Government
4 will work to get that liquidated as soon as possible, and then,
5 also, as the Court's aware, I cannot promise -- I do not have
6 the authority to say that those funds will then be applied to
7 restitution, but that's something that we're happy to seek.

8 **THE COURT:** No, you don't have that authority --

9 **MR. EL-ZEIN:** Exactly.

10 **THE COURT:** -- but you have the authority to
11 recommend; is that correct?

12 **MR. EL-ZEIN:** Yes, I can make a recommendation. I
13 intend to, your Honor.

14 **THE COURT:** All right. Great. Do you understand
15 that, counsel?

16 **MR. HAMMOND:** Yes, your Honor.

17 **THE COURT:** And, Mr. Handschumacher, that the
18 forfeiture does not automatically go to the restitution. The
19 Government will make a recommendation that it does, but it
20 doesn't automatically happen. That's my understanding at
21 least; is that correct?

22 **MR. EL-ZEIN:** Yes, your Honor.

23 **THE COURT:** And I understand there is also, in
24 addition to that, some vehicles, a Ford Platinum -- a Ford
25 F-250 Platinum, a Polaris Ranger all-terrain vehicle, Polaris

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1 Highlifter all-terrain vehicle, and I thought there was one
2 other vehicle.

3 **MR. EL-ZEIN:** I believe it's just the three vehicles,
4 your Honor.

5 **MR. HAMMOND:** I did have a question. Excuse me. It
6 doesn't automatically go to restitution. Do you think it will
7 eventually go to restitution?

8 **THE COURT:** They'll recommend that it will go to
9 restitution, but they don't have the authority to direct it
10 directly there.

11 **MR. EL-ZEIN:** That's correct. They'll have to make
12 their request with DC, and it's, ultimately, up to them.

13 **THE COURT:** Okay. Now, Mr. S.S., I noted that you
14 have submitted a victim statement. Is there anything you want
15 to say?

16 **MR. S.S.:** No. I'd like to say I couldn't hear
17 everything that the Government said, that I just want -- from
18 what I could hear, your Honor, I just want to thank the
19 Government. It's hard to overstate how disruptive that this
20 has been. You know, we're not -- I can't speak for other
21 victims but we were not wealthy people --

22 **THE COURT:** Hold on. Mr. S.S., the court reporter is
23 trying to take it down. Just speak a little slower. Start
24 with where you were talking about, "We're not wealthy people."
25 Speak very loudly, sir.

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1 **MR. S.S.:** It was basically our entire life savings
2 that was stolen, and, you know, almost four years of living
3 with the aftermath of that. So I just want to thank the
4 Government for pursuing this, and, you know, trying to keep me
5 on, letting me participate, and I'm looking forward to, you
6 know, restitution and that justice is served. This is really a
7 despicable crime that was carried out on ordinary working
8 people. That's what I wanted to say. Thank you, your Honor.

9 **THE COURT:** All right. Thank you. I have gone
10 through the presentence report and the sentencing memorandum
11 submitted by counsel and the victim's statement, and I've also
12 heard from your family members.

13 Do you want to make a statement to the Court?

14 **THE DEFENDANT:** Oh, yes, your Honor.

15 **THE COURT:** All right. You may.

16 No, you come to the podium with him, counsel.

17 **MR. HAMMOND:** Okay.

18 **THE DEFENDANT:** I just want to say a couple things,
19 your Honor.

20 **THE COURT:** Loudly into the mic.

21 **THE DEFENDANT:** Okay. I just want to say a couple
22 things, your Honor. My part in all of this, I didn't know how
23 old my codefendants were or like anything like that, and I
24 didn't know how much was, like, being taken. That doesn't make
25 it right or anything, but I just got a cut of whatever they

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1 were taking. They didn't -- there was other people they could
2 have went to besides me to get this done. So it probably,
3 unfortunately, would have gotten done anyway.

4 At the time of forfeiture, I gave, you know, anything
5 I had back, the trucks. I -- they weren't mine. I had no
6 objections to any of that, and then I would say I was a smaller
7 fish, because, even when I believe it was Homeland Security
8 came and even talked to like my mother in their van outside,
9 they specifically told her that that was, like that I was a
10 smaller fish in this.

11 Your Honor, I would just like to apologize to
12 everyone I have affected with my involvement. First, I want to
13 sincerely apologize to the victims in these unfortunate
14 circumstances that I've been a part of. I know my involvement
15 in this could have caused them hardships and sorrow. I'm
16 begging your Honor to have some leniency. This has been going
17 on since July 2018.

18 Being on an ankle monitor, GPS, and a curfew has
19 taught me such a lesson. Missing going out on little
20 activities with my family and children, not being able to do
21 simple things, like go swimming with my daughter, breaks my
22 heart. My amazing fiancée -- just me and my amazing fiancée
23 just have had our baby boy not even three months ago. I want
24 to be there for my son and make all the memories that I didn't
25 have with my father growing up.

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1 I've never been in trouble in my life before or after
2 my involvement. To say I've learned my lesson is an
3 understatement. I've realized no amount of money or greed is
4 worth me not being able to see my family or spend time with
5 them. The memories are priceless. Please consider my good
6 faith in this sentencing.

7 **THE COURT:** Okay. Thank you.

8 **THE DEFENDANT:** Thank you.

9 **THE COURT:** You're -- you all can go back to the
10 table if you've completed your statement.

11 **THE COURT:** I'm required to fashion a sentence that's
12 sufficient but not greater than necessary to achieve the goals
13 of sentencing, and, in doing that, I'm to consider a number of
14 factors that are set forth in 18 United States Code Section
15 3553, and you should know that I have heard your counsel's
16 argument relative to your cooperation, but it's my
17 understanding that the Government has provided no cooperation
18 document; is that correct?

19 **MR. WYSE:** That is correct, your Honor.

20 **THE COURT:** Okay. And is really asking for the mid
21 point of the guidelines, and so the factors I'm supposed to
22 consider are these: The nature and circumstances of the
23 offense and the history and characteristics of the Defendant,
24 and I'm satisfied that, while I don't think that -- well, I
25 think the age of the other individuals involved really didn't

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1 have anything to do with you. What it really has to do with is
2 whether or not you were a more mature person and maybe should
3 have had some other indication of this wrongdoing and made a
4 better judgment than someone who perhaps is still young and a
5 bit naive might be. Like I know one of the people, I was
6 convinced that person was much more naive than other
7 individuals involved in this. You, however, aren't one of
8 those.

9 I have here also that I think that the nature and
10 circumstances the offense are serious, because there's a lot of
11 money stolen, and it's stolen from individuals who, number one,
12 are unsuspecting, and, number two, some of them are like
13 Mr. S.S., who is here in court today, that this was not, you
14 know, some organization or anything. It was an individual and
15 their personal money, their, as he describes it, his life
16 savings that were involved, and I think that makes it a little
17 bit different than stealing from a company that might have some
18 other means of recovering that than an individual.

19 I'm also satisfied that it seemed like kind of a
20 we're going to go out there and just do these things. We're
21 just going to hack. We don't have any sense of caring very
22 much, until it's over, about people who might be involved in
23 this and where the money might be coming from and where it
24 might go, and so, to some extent, on the part of everybody
25 involved, it seemed like it was kind of a relaxed look at what

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1 you were doing and just kind of like a greed thing. I mean it
2 wasn't -- particularly in your case, it wasn't that you were
3 destitute or anything. You had some education, and you had the
4 ability to have a job. So it wasn't that you couldn't go out
5 and make money on your own, and that is kind of the nature of
6 these kind of things, but I think it's a very serious offense
7 in this particular scheme of things. I'm also to look at the
8 history and characteristics of the Defendant, and, for that, I
9 would note that in the scheme of people who come into court,
10 you're on the young end of that. You may not think you are,
11 but you really are on the young end of those people who commit
12 crimes within our system.

13 I'm satisfied that you had a decent childhood. I had
14 some notes here that you were and athlete and well-integrated
15 into your experiences as a youth, and, also, that, unlike some
16 other people, you did not seem to be someone who was just, you
17 know, isolating themselves and unliked by others and,
18 therefore, kind of a person who might reach out to do something
19 like this because of a bad situation that they were in. Not
20 that that excuses that behavior, which is exactly what I told
21 them, that it doesn't excuse that behavior.

22 I'm also satisfied that -- I don't know whether it's
23 better or worse that there are hackers out there that don't
24 know one another, and maybe that adds a little bit to the
25 frivolousness and the unaccountability of it relative to one

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1 another.

2 Otherwise, I don't think there's anything in your
3 history or characteristics that is a negative to you. I had
4 one thing I wanted to note here. Okay, I wanted to note that
5 it does not appear that you have any physical problems or that
6 you have any mental health diagnosis or received any mental
7 health treatment. It does not appear that you have any
8 substance abuse problems.

9 It appears that you graduated from high school and
10 that you were able to have some employment, including an
11 employment from July of 2019, on Paragraph 44, until -- at
12 least at the time that this report was written, and that prior
13 to that, that you have worked -- you had been unemployed for a
14 time but that you were also employed by the city of Port
15 Richey, and, prior to that, in a grocery store, and for the
16 short period of time that you've been an adult, that's a
17 significant amount, as far as I'm concerned, of employment.

18 The other thing I want to say is that I'm to consider
19 whether or not the sentence that I'm going to craft will
20 reflect the seriousness of the offense. I've already spoken to
21 that.

22 Promotes respect for the law and provides just
23 punishment, and I'm sure that you're aware now of the
24 seriousness of the offense. That may be enough to promote
25 respect for the law. I don't know that. You know, I don't

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1 know that in these particular kind of instances whether people
2 look at it and say, you know, I've been involved in this. It
3 was easy. I just happened to get caught. I'm never going to
4 get caught again because of the nature of how this is done and
5 how hard it is to investigate and to find out what each person
6 involved in it is doing. So I don't know that my sentence will
7 promote respect for the law, but at least I have taken it into
8 consideration.

9 And I'm also to fashion a sentence that provides just
10 punishment, and I know that in all of the cases during the
11 pandemic, where people have been on bond, they have noted I've
12 been, you know, really good, in quotes, on pretrial release,
13 and that shows that I am rehabilitated, and, to some extent,
14 that may be true. To the other extent, the opportunity was
15 that you would not be on pretrial release and you would be in
16 custody where everyone else is attempting to get out of custody
17 because of Covid-19. So I see that people would be, to a very
18 great extent, well-behaved on pretrial release at this time,
19 especially when they don't want to be incarcerated. So I don't
20 give that a lot of weight. I know it's a long time to wait,
21 but I'm sure it is far less onerous conditions than if you were
22 waiting in jail to be able to proceed.

23 I'm also to consider whether or not I will afford
24 adequate deterrence to criminal conduct, and I recognize that
25 this may have been an opportunistic crime, but it's still

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1 illegal. You still have to answer for it, and some of it, the
2 deterrence, I think, is not only deterring yourself, meaning
3 that something happens to you that makes you not want to do
4 this ever again even if you think the opportunity to be caught
5 is very small, and it's going to become less small. The
6 Government is going to get better at uncovering this type of
7 crime and uncovering it earlier, but I also think that we deter
8 others by letting them know that we're not going to just let
9 this kind of crime go unaddressed.

10 I'm also to fashion a sentence that protects the
11 public from the further crimes of the Defendant, and I will do
12 that in this case by requiring, since it's your first contact
13 with law enforcement, and to some extent the presentence report
14 indicates it's a deviation from your otherwise law-abiding
15 life, that you will have to participate in the Computer
16 Internet Monitoring Program for the entire time that you're
17 connected to the Court by being incarcerated, if you're put in
18 a halfway house, or while you're on supervised release, and
19 you'll have to abide by that agreement, which addresses all of
20 the computers to which you would have any contact, okay, and it
21 allows them to not only search but at reasonable times and
22 places, but to also be for you to provide other people using
23 the computers with the understanding if you're using their
24 computer, it's subject to search as well.

25 I'm to fashion a sentence that provides you with

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1 needed education and vocational training, medical care, or
2 other correctional treatment in the most effective manner, and
3 it does not appear that you're unhealthy, or, as I said, have
4 any mental health or substance abuse concerns. I know you have
5 a high school diploma, and you have had some employment that's
6 consistent with that, and so I would note that you should have
7 the opportunity to engage in any programs that you think are
8 beneficial to you to enhance that, but I don't have any that
9 I'm going to particularly point out.

10 I also have to consider the kinds of sentences
11 available, and that is the 78 to 97 months of incarceration,
12 and that it will be followed by a term of supervised release,
13 and I'm also to consider the need to avoid unwarranted
14 sentencing disparities among defendants with similar records
15 having been found guilty of similar kinds of conduct, and I
16 have these other codefendants, all of whom seem to have various
17 roles in conducting this conspiracy, and I think that my
18 sentence will reflect how I think the various roles and the
19 history and characteristics and other factors have impacted
20 those people, all of whom, so far, have received a sentence
21 that is below the guideline range.

22 I'm also to consider the need to provide restitution
23 to any victims of the offense, and I am going to order a
24 restitution against you relative to this. I will also
25 recommend that the amount that you're forfeiting go against the

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1 restitution, but, you know, part of it is that, you know, the
2 amount of restitution is really high, and I think it's really
3 difficult for anybody, although you're a young person and so
4 are the others, to pay back seven-and-a-half-million dollars.
5 That's a tremendous amount of money, and the amount that it is
6 apparent that you're forfeiting doesn't really approach that.
7 It doesn't approach \$7 million, and so, you know, the Court is
8 always wondering what happened to the money that was stolen
9 away from people and whether or not people have spent it or
10 they hid it away, especially if there's nothing really
11 apparent. There is, in some cases, something apparent to show
12 for it, but I have considered that as well.

13 I've said in the other sentences, because in the
14 other instances, people also ask for noncustodial sentences,
15 that I don't think that a noncustodial sentence is appropriate
16 in these cases. I mean we think, kind of like we do in other
17 kinds of cyber crimes, that you don't see what's happening.
18 It's not done with some -- it's not like you went in and robbed
19 a place where some people were standing there and you had to
20 deal with the actual people that you might be stealing the
21 money from, or had to confront an actual bank teller who might
22 be afraid or anything like this. This is kind of done on your
23 own on the computer. You don't really have any real people in
24 front of you. It's not maybe very -- it does not seem very
25 personal to the people committing the crime, but it's really

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1 personal against the people that the crime is committed, and so
2 I don't think that a noncustodial sentence is appropriate.
3 Even with the halfway house and the like, I don't think it's
4 appropriate, and I think you can tell that from the other
5 sentences that I've imposed.

6 And, therefore -- but I should also say that I think
7 the 78 to 97 months is driven, as many as of these monetary
8 crimes are, by the amounts of loss, and I think, in this
9 particular instance, where I have people before me and you who
10 don't have prior serious offenses or any offenses at all, that
11 I give credit for that in most other instances of fashioning a
12 sentence, and the credit for it actually goes to the amount of
13 time that you have to be incarcerated usually, and I don't see
14 any reason why I shouldn't do that in this particular instance.
15 In all of these instances, I think I have before me people who
16 have the ability to do one of two things. They can grow and
17 become productive members of society and attempt to pay back
18 the victims the money that was, you know, secretly stolen from
19 them and computers used to do that, and, therefore, I think
20 that a sentence within the guideline range is too much for the
21 charges that I'm presented with here for the reasons that I've
22 stated.

23 And, therefore, with respect to Count 1 of the
24 indictment, pursuant to the Sentencing Reform Act of 1984, the
25 Court, having considered the advisory guidelines and the

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1 factors contained in 18 U.S.C. §3553(a), commits the Defendant
2 to the custody of the Bureau of Prisons for a term of 48
3 months.

4 And, upon release from imprisonment, the Defendant
5 will be placed on supervised release for a term of three years.

6 I'm ordering that a special assessment of \$100 be due
7 immediately.

8 I'm also waiving the imposition of a fine, the costs
9 of incarceration, and the costs of supervision, which are
10 large, because of the lack of resources currently existing,
11 and, also, because of the amount of the restitution that I'm
12 going to order, and I'm ordering that you pay that restitution
13 to the clerk of the court for disbursement to the victims
14 identified below in the amounts below for a combined
15 restitution order of \$7,681,570.03, which is due immediately.

16 While on supervised release, payments must be made at
17 a rate and schedule determined by the probation department,
18 approved by the Court, and they are going to these victims:

19 Victim with initials D.M. in the amount of
20 \$116,387.12;

21 Mr. S.S. in the amount of \$1,967,146.57;

22 And S.B. in the amount of 5 -- no, I'm sorry,
23 \$5,598,036.34.

24 I am suspending the mandatory drug testing, unless
25 it's determined by the probation department, while you're on

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1 supervised release, that you're using drugs or alcohol.

2 Pursuant to 34 United States Code Section 40702, the
3 Defendant shall cooperate with the collection of a DNA sample.

4 While on supervision, you must abide by the standard
5 and special conditions adopted by the United States District
6 Court for the Eastern District of Michigan, most important of
7 which are that you not commit a crime against any other unit of
8 government, that you not have a firearm or any ammunition
9 either in your home, your car, your place of business, anyplace
10 where it could be attributable to you. I'm also going to --
11 but all of them are listed on one page of your judgment, all
12 the conditions, and you should pay attention to them, because I
13 hold you accountable for reading all of them.

14 I, also, the following condition is imposed, and that
15 is that you must participate in the Computer Internet
16 Monitoring Program administered by the United States Probation
17 Department, and you must abide by the program participant
18 agreement in effect at the time of supervision and comply with
19 any amendments to the program during the term of supervision.
20 Due to the advances in technology, the Court will adopt the
21 amendments to the Computer Internet Monitoring Program as
22 necessary.

23 For the purposes of accounting for all computer
24 hardware, software and accessories, you must submit your
25 person, residence, computer, and/or vehicle to a search

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1 conducted by the United States Probation Department at a
2 reasonable time and in a reasonable manner. You must inform
3 any other residents of your premises who may be subject to the
4 search pursuant to this condition.

5 You must provide the probation officer with access to
6 requested financial information, including billing records,
7 telephone, cable, Internet, satellite, et cetera, and you must
8 submit your person, your residence, and your office, your
9 vehicle, papers, business, or place of employment, and any
10 property under your control to a search, and such search shall
11 be conducted by the United States probation officer, again, at
12 reasonable times and in a reasonable manner based upon a
13 reasonable suspicion of contraband or evidence of a violation
14 of a condition of release, and if you fail to do that, that may
15 be grounds for revocation of your supervised release for which
16 you may be sent back to incarceration.

17 Due to the restitution obligation, you will not be
18 permitted to open any lines of credit, get any loans, or
19 anything of the like without the approval of the probation
20 officer, and only if you're in compliance with your probation
21 order.

22 And you must pay your financial penalties in
23 accordance with the scheduled payments set by this judgment,
24 which are that the probation department will set them after
25 reviewing your financial data, and then the Court will approve

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1 it. You should know that I am recommending no less than \$100
2 per month for you to pay.

3 I think that's all.

4 Does probation department have anything else?

5 **PROBATION OFFICER:** No, your Honor.

6 **THE COURT:** Okay. What about the Government? Are
7 you wishing anything other than that the forfeiture language be
8 included?

9 **MR. WYSE:** Nothing else, your Honor.

10 **THE COURT:** Okay. Do you want to make any
11 recommendations relative to incarceration?

12 **MR. HAMMOND:** Just a recommendation as to him being
13 placed in Florida so that it will be closer for the family, and
14 I don't know -- I didn't know if he's allowed to stay out of
15 reporting at this time. He was hoping to spend the holidays
16 with his family.

17 **THE COURT:** You know, everybody hopes to do that,
18 counsel, and the holidays get started earlier and earlier every
19 year, and, you know, I say that, because some people really
20 deserve it, and some people really don't, but I am going to
21 require that he report -- what's the date that we're giving for
22 people to report in January?

23 **CASE MANAGER:** I thought it was January 22nd.

24 **THE COURT:** That's okay. Who has -- does probation,
25 do you have your phone?

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1 Okay. Andrea, can you pull up the calendar?

2 What's the first day of -- the first business day --

3 I've been using the second business day following January 1st.

4 **COURT REPORTER:** January 3rd.

5 **THE COURT:** January 3rd?

6 **COURT REPORTER:** Yes.

7 **THE COURT:** Okay. You can report no earlier than

8 January 3rd.

9 I want to tell you a couple of things. Don't try to
10 dispose of any of your income or any of the things that have
11 been forfeited during this period of time. You must abide by
12 all the conditions of your pretrial release until you're asked
13 to report.

14 I'll recommend that you be placed somewhere, as the
15 BOP normally does try to place people somewhere near where they
16 live, wherever they live. In this case, it will be Florida,
17 but you still have to continue whatever reporting you're doing
18 for now, all right, and I will consider it a violation of your
19 pretrial release if you try to dispose of any of your assets.
20 Do you understand that?

21 **THE DEFENDANT:** Yes, your Honor.

22 **THE COURT:** Do you have any questions about your
23 sentence?

24 **THE DEFENDANT:** No, your Honor.

25 **THE COURT:** Okay. In your Rule 11 Plea Agreement,

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1 you gave the right up the right to take an appeal if I had
2 sentenced you at or below the guideline range, which I have,
3 except for ineffective assistance of counsel and prosecutorial
4 misconduct, but if you think that you -- if you and your
5 counsel thinks there's any other room for appeal, you have only
6 14 days to make up your mind to take an appeal, and if you
7 cannot afford the appeal, I will appoint an attorney for you at
8 no cost to you. Do you understand all of that?

9 **THE DEFENDANT:** Yes, your Honor.

10 **THE COURT:** Okay. Anybody have any questions?

11 **MR. WYSE:** No, your Honor.

12 **THE COURT:** Okay. All right. Very well. This
13 matter is in recess. The BOP will --

14 **MR. HAMMOND:** Pardon me?

15 **THE COURT:** The BOP will send you a letter, and it
16 will tell you where to report. If it doesn't tell you what
17 time to report, you should report by noon of the day that they
18 designate, all right?

19 **THE DEFENDANT:** Yes, your Honor.

20 **THE COURT:** Okay.

21 **MR. HAMMOND:** So for today --

22 **THE COURT:** I'm sorry?

23 **MR. HAMMOND:** For today, is there anything he needs
24 to do today?

25 **THE COURT:** He needs to follow all the conditions of

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1 his pretrial release until he's, you know, receives a letter
2 from them.

3 That's all he has to do, Mr. Hampstead; is that
4 right?

5 **PROBATION OFFICER:** That's it.

6 **MR. HAMMOND:** All right. Thank you, your Honor.

7 **THE COURT:** Thank you. The Court is in recess.

8 (Proceedings concluded 3:39 p.m.)

9 - - -

10
11 **C E R T I F I C A T I O N**

12 I, Andrea E. Wabeke, official court reporter for the
13 United States District Court, Eastern District of Michigan,
14 Southern Division, appointed pursuant to the provisions of
15 Title 28, United States Code, Section 753, do hereby certify
16 that the foregoing is a correct transcript of the proceedings
17 in the above-entitled cause on the date hereinbefore set forth.
18 I do further certify that the foregoing transcript has been
19 prepared by me or under my direction.

20 /s/Andrea E. Wabeke

August 24, 2022

21 Official Court Reporter
22 RMR, CRR, CSR

Date

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